

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: DAVOL, INC./C.R. BARD, INC.,
POLYPROPYLENE HERNIA MESH
PRODUCTS LIABILITY LITIGATION

Case No. 2:18-cv-2846

JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson

This document relates to:
Brooks v. Davol, Inc., et al.
Case No. 2:22-cv-3992

ORDER

This matter is before the Court on Defendants C.R. Bard, Inc. and Davol, Inc.’s Motion to Dismiss for inadequate service of process. (ECF No. 3.) Plaintiff has not responded.

“If a defendant is not served within 90 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Case Management Order 9 sets out an email service procedure as an alternative to formal service. (CMO 9, MDL 2846, ECF No. 61, PAGEID 978.) If a plaintiff follows the procedure in CMO 9, Defendants agree to waive formal service of process. (*Id.*)

Plaintiff filed this case on November 13, 2022. Defendants moved to dismiss for inadequate service on October 17, 2024. (Mot., ECF No. 3.) Defendants assert that Plaintiff did not follow the email service procedure. (*Id.* at PAGEID 11.) Defendants, however, do not state whether Plaintiff failed to serve the Complaint by any proper method. (*See id.*) Accordingly, the Court **DENIES WITHOUT PREJUDICE** Defendants’ Motion to Dismiss. (ECF No. 3.)

IT IS SO ORDERED.

4/14/2025
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE